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FISCAL IMPACT STATEMENT

LS 6527 | **NOTE PREPARED:** Dec 19, 2003
BILL NUMBER: SB 228 | **BILL AMENDED:**

SUBJECT: New Generation Tax Credit.

FIRST AUTHOR: Sen. Skillman | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State
X **DEDICATED**
FEDERAL

Summary of Legislation: The bill provides that the Commission for Agricultural and Rural Development may certify taxpayers that invest in certain agricultural businesses as producer members. The bill provides that a producer member is eligible for a tax credit equal to the lesser of: (1) 50% of the producer member's investment; or (2) $15,000. It also limits the annual amount of credits available to certain capital projects and requires the Department of State Revenue to determine a method to allocate credits among producer members.

Effective Date: July 1, 2004.

Explanation of State Expenditures: *Department of State Revenue (DOR):* The DOR would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate this tax credit. These expenses presumably could be absorbed given the DOR's existing budget and resources.

Indiana Department of Commerce (IDOC): The bill requires the Indiana Commission for Agricultural and Rural Development to approve New Generation Cooperatives (NGCs) and New Generation Processing Entities (NGPEs), and certify the type of entity in terms of capital investment and employment, for purposes of the tax credit. The bill also requires the Commission to determine eligibility for the tax credit by certifying taxpayers who are producer members of NGCs and NGPEs, and certifying the taxpayer's investment in the NGC or NGPE. Under current statute, the IDOC must provide administrative assistance to the Commission. The Department should be able to meet these demands given its current budget and resources. The November 5, 2003, state staffing table indicates that the IDOC has 30 vacant full-time positions, including regional offices.

Explanation of State Revenues: The bill establishes a credit against the Gross Retail and Use Tax, Adjusted Gross Income (AGI) Tax, Financial Institutions Tax, or Insurance Premiums Tax liability for qualified taxpayers who make investments in New Generation Cooperatives (NGC) or New Generation Processing Entities (NGPE). The precise annual revenue loss due to this bill is indeterminable. However, the bill limits aggregate credits that may be claimed each year to $6.0 M. The annual revenue loss could potentially begin in the second half of FY 2005 or FY 2006. The net revenue impact depends on the extent that collections from earnings and employment attributable to processing of agricultural commodities by NGCs or NGPEs is less than or exceeds the amount of credits claimed by taxpayers. However, if the processing activities would have occurred in the absence of the tax credit, the net impact would be the total credits claimed by taxpayers.

The tax credit is nonrefundable and is equal to the lesser of: (1) 50% of investment by an agricultural producer in a NGC or NGPE during 2005 or subsequent years; or (2) $15,000. The tax credits may be claimed only by "producer members"of an NGC or NGPE. The bill defines a producer member as a person in the business of agricultural production who invests in an NGC or NGPE beginning in 2005. NGCs are agricultural cooperatives, and NGPEs are business entities other than a sole proprietorship, that own or operate a facility located in Indiana that: (1) produces an agricultural commodity ; or (2) produces biodiesel or ethanol and increases its production capacity each year beginning in 2006 in an amount determined by the Indiana Commission for Agricultural and Rural Development. NGCs and NGPEs must be approved by the Commission. In addition, NGPEs must meet requirements for ownership and management by producer members. The bill limits the total credits allowed during a taxable year to $6.0 M. No more than $1.5 M of this total may be allowed for investment in "large capital projects;" and no more than $3.0 M of this total may be allowed for investment in "employee qualified capital projects." Large capital projects are NGCs or NGPEs having capital costs of at least $1.0 M. Employee qualified capital projects are NGCs or NGPEs having at least 100 full-time employees and capital costs of at least $15.0 M.

The tax credit may not be claimed if the taxpayer also claims the existing ethanol production credit. The taxpayer may carry forward any unused credit amount from a taxable year for five subsequent taxable years. The taxpayer is not eligible to carry back any unused credit. For pass through entities, the credit may be claimed by shareholders, partners, or members in proportion to their distributive income from the pass through entity. In addition, a taxpayer may transfer, sell, or otherwise convey tax credits to another taxpayer.

Revenue from the AGI Tax on corporations, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund. Revenue from the AGI Tax on individuals is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%). Sales Tax revenue will be deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Since the tax credit is effective for investment beginning January 1, 2005, the fiscal impact could potentially begin in FY 2005 if taxpayers adjust their quarterly estimated payments. This also depends upon how quickly the Indiana Commission for Agricultural and Rural Development certifies NGCs and NGPEs for purposes of the tax credit.

Background: According to literature on New Generation Cooperatives, these entities are typically comprised of members who produce agricultural commodities. These producer members purchase shares of stock in the NGC. The stock purchase creates a pool of capital that is used to finance the acquisition or construction of processing facilities for member agricultural commodities. The shares of stock also represent a predetermined annual amount of a commodity that the producer members must deliver to the NGC. The members of the NGC earn income from the sale of the processed commodities. Thus, they benefit from the value of the raw commodities as well as the value added by processing.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Commission for Agricultural and Rural Development; Indiana Department of Commerce; Department of State Revenue.

Local Agencies Affected:

Information Sources: *New Generation Cooperatives: Case Study*, Illinois Institute for Rural Affairs; *Agriculture Innovation Center Missouri Department of Agriculture*, Innovations, Nov./Dec. 2001.

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